

wharves; (*k*) yet even that small duty, which might have been considered as a toll paid only for the use of the port itself, was held to fall within the scope of those constitutional provisions, and not allowable without the consent of Congress, which was given to that act of Assembly by Congress. (*l*) And which consent has been, from time to time, renewed since, as it has been found expedient or necessary to raise a fund, in that way, for clearing the port and repairing the public wharves. (*m*) And so, too, as a means of regulating commerce and preventing, preparing for, or of adding to the energies of war, the federal government has the power to lay an embargo; and thus, for a season, partially to interrupt the use of all wharves, by closing the public ports altogether against all foreign intercourse. (*n*)

Those public rights within a port which are involved in the exclusive internal government of the Republic, in all cases fall within the range of the powers of the state government; yet if the port itself be not within the body of a county; but, as an arm of the sea, be within the jurisdiction of the admiralty, then, as to acts committed in it; and as to all acts in any port which come within the jurisdiction of the admiralty, the tribunals of the state can take no cognizance of them; because the judicial power of the United States is extended to all cases of admiralty and maritime jurisdiction. (*o*) But in all cases where the tribunals of the states have an exclusive or concurrent jurisdiction, the state government may make and enforce all needful regulations for the purpose of giving a salutary system of police to the port itself, and its town, especially in so far as it may be within the body of a county, as is the fact of the port of Baltimore. (*p*)

Private rights in a public port may be of various kinds; but all of them are subject to those public rights, the regulation of which have been left either with the state, or delegated to the federal department of the government of our Republic. Any individual holder of the shore of a navigable river or haven may use it for the purpose of landing his own goods which are not chargeable with any duty; or he may suffer another to do so, upon any terms

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(*k*) April, 1763, ch. 24, s. 10; *Hale de Portibus*, 78, 87; *Mayor of Yarmouth v. Eaton*, 3 Burr, 1402; *Casher v. Holmes*, 22 Com. Law Rep. 146.—(*l*) Acts Cong. 11 Aug. 1790, ch. 43.—(*m*) 1791, ch. 60; Acts Cong. 12 May, 1796, ch. 26.—(*n*) *Gibbons v. Ogden*, 9 Wheat. 192.—(*o*) *The United States v. Bevans*, 3 Wheat. 337; *Hastings v. Plater*, 1 Bland, 613, note.—(*p*) 1734, ch. 16; 1753, ch. 27; March, 1774, ch. 18; *Gibbons v. Ogden*, 9 Wheat. 203.